

**805 KAR 8:030. Criteria for the imposition and enforcement of sanctions against certified miners.**

RELATES TO: KRS 351.1041, 351.120, 351.194, 352.010- 352.540

STATUTORY AUTHORITY: KRS 351.025(1)(a), 351.070(13)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070(13) authorizes the Secretary of the Energy and Environment Cabinet to promulgate administrative regulations he deems necessary and suitable for the proper administration of KRS Chapter 351. KRS 351.025(1)(a) requires the Department for Natural Resources to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified miners whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. This administrative regulation establishes the criteria for the revocation, suspension, or probation of a miner's certificate upon an adjudication by the Mine Safety Review Commission that a miner has committed this type of violation.

Section 1. (1) If a certified miner commits a first offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may revoke or suspend the miner's certificate, in accordance with KRS 351.194(5) and (6), or it may probate the miner's certificate for a period of no greater than ten (10) working days.

(2) If a certified miner's certificate is revoked pursuant to subsection (1) of this section, the miner may apply to the Division of Mine Safety for the reinstatement of his certificate, after the revocation period has ended, and after he has retaken and passed the requisite examination required for the certification. The Division of Mine Safety may grant or deny the application in accordance with KRS Chapter 351 and the administrative regulations promulgated under that chapter.

(3) If a certified miner's certificate is suspended, pursuant to subsection (1) of this section, it shall be automatically reinstated at the end of the specified period of suspension. A suspension imposed by the commission may be for nonconsecutive days.

(4) If a certified miner is placed on probation, the Mine Safety Review Commission may impose the terms of the probation, and it may impose penalties for the violation of the terms of probation, in accordance with KRS 351.025(1)(a) and subsection (1) of this section. If the certified miner satisfies the terms of his probation, the probation shall automatically expire at the end of the probationary period.

(5) If a certified miner, who has been adjudicated by the Mine Safety Review Commission to have committed a first or subsequent offense, holds more than one (1) certificate, the commission may revoke, suspend, or probate some or all of the miner's certificates.

(6)(a) A certified miner, who has been adjudicated by the Mine Safety Review Commission to have committed a first or subsequent offense, and who is hourly and not a foreman, may request the commission to consider whether the miner:

1. Was ordered by a foreman or other superior to commit a violation; or
2. Acted solely on his own accord.

(b) If requested by the miner, the commission shall take into consideration the factors in paragraph (a) of this subsection when determining the penalty.

(c) If the commission determines that the miner was ordered by a foreman to violate the mine safety law, the commission shall state whether and why that fact mitigated the severity of the penalty it imposed. (28 Ky.R. 2128; Am. 29 Ky.R. 714; eff. 9-16-2002; 44 Ky.R. 692, 1525; eff. 2-2-2018.)